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PLEASE RESPOND TO:

Arlington

June 30, 2006
(Filed via ECFS)

Hon. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, **Room TW B-204**
Washington, DC 20554

ATTN: Shaun Maher (Room 2-A820)

Re: MB Docket No 03-15
WSJU-DT, San Juan, PR (Facility ID#: 63177)
Request for Waiver of the Replication/Maximization
Interference Deadline

Dear Sir:

This letter waiver request is made on behalf of Aerco Broadcasting Corporation, licensee of television station WSJU-TV, San Juan, Puerto Rico. Aerco also is the permittee of the above referenced digital television station, WSJU-DT.

This waiver request is in response to the Commission's *Public Notice* released June 14, 2006 in MM Docket No. 03-15 *Public Notice: DTV Channel Election Issues – Compliance with the July 1, 2006 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline ("Public Notice")*. Aerco is requesting a waiver and six-month extension deadline by which the station is to construct its fully authorized facilities or loose interference protection for the reasons set forth herein and which were beyond its control. As is explained in more detail herein, there is being filed an application for minor modification in the station's construction permit to reduce the station's effective radiated power at its current site.

During the past year Aerco has attempted to position itself to build out a full DTV facility. Initially, Aerco was going to operate digitally, on its analog channel (channel 30) and made a first round election, accordingly. Under the FCC's use-it-or-lose-it standard, the station would only have had to provide service by July 1, 2006 to 80% of its population (which it currently does). In order to meet the July 1, 2006 deadline the station commenced service with

reduced power pursuant to an STA and with that service provided coverage to more than 80% of the NTSC population, which would have complied with the coverage requirement to maintain its maximum use-or-lose service. After the election was made last year, the FCC subsequently determined that the use of WSJU's NTSC channel would result in interference to a station operating on channel 29 in Mayaguez, PR. Resolution of that interference problem (on its analog channel) would have required a reduction in power such that the station would not have been able to replicate 100% of its NTSC service. Aerco changed its digital election to its digital assignment, channel 31, in order to resolve this conflict, but its construction planning was based upon a use-it-or-lose-it requirement of 80% population coverage.

Aerco has been working with its local consulting engineers as well as its Washington, DC based engineer to configure a permanent nearly full replication facility for WSJU which is realistic for this small market independent station. Currently, WSJU-DT provides digital service on Channel 31 to approximately 2,187,605 persons (approximately 87% of the DTV service population). Because of the topography of Puerto Rico, and the mountainous terrain to the rural south of the island practical maximization of service would be achieved by providing service at its current site utilizing an new transmitter which would produce an effective radiated power (ERP) of 66 kW. At this power the station would service 2,427,430 persons which would amount to 95.6% replication, in lieu of operation at 88 kW which is the maximum power due to the FCC current freeze.¹ With the higher power 88 kW ERP the station would only increase coverage from 95.6% to 96.9 %, or a net increase of 01.3 %. The cost to install the higher power transmitter is significantly more expensive than the 5kw output power transmitter purchased and proposed in the pending application, discussed below.

As mentioned below, WSJU-TV is a marginally profitable station. It is an independent station which is located in a smaller market. The cost savings is significant to this station. There is on file with the Commission financial statements for Aerco which operates not only WSJU-TV but WQBS (AM) in San Juan. See, EB-02-IH-0167. These financial statements show that over the last five years, the pre-tax net income of the combined AM and TV stations totaled (not averaged) \$107,596. The financial statements show that the 2005 net income, before taxes, for both stations was \$31,307 with the television station generating approximately 71% of the total company revenue.² The percentage of revenue generated by the television station was significantly higher than in past years.

In order to provide permanent service, the station has designed the station so as to take advantage of its existing site and facilities, to the maximum extent possible. In order to achieve a 95% coverage the station recently filed with the Commission a minor application to modify its

¹ At 88 kW the station would serve 2,427,430 persons which is 96.9% replication of its analog service.

² The company does not segregate expenses since many of the expenses are common to both stations. It does, however, attempt to track revenues generated by each station.

construction permit to reduce its ERP to 66 kW. See, BMPCDT-20060628ACE. That recently filed application is still pending and was not filed earlier when the equipment was ordered due to lack of communications between the station and its consultants. This communications is exacerbated by language differences. In order to commence service upon grant of the modified construction permit, the station will install its permanent transmitter and transmission line. The station has worked very carefully with its equipment supplier and the necessary equipment was ordered in April, 2006 and currently is on back-order according to the station's equipment representative. It is expected that the equipment should arrive by the time the minor modification to its permit is issued, but obviously not by July 1, 2006. A copy of the equipment order is attached.

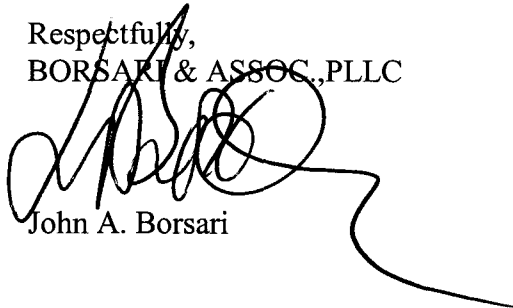
In summary, the station has met all past DTV conversion deadlines and now seeks to preserve its ability to maximize coverage with the grant of the modified construction permit with a waiver of the July 1, 2006 deadline.

In addition to this waiver, the station has pending a request for extension of its special temporary authority which has been amended to reflect this waiver request; and the station is filing an application for extension of its construction permit, which also references this waiver request.

For good cause shown a waiver of the deadline is in the public interest and should be granted.

Should any questions arise with respect to this matter please contact this office, pursuant to Section 1.12 of the Commission's rules.

Respectfully,
BORSARI & ASSOC., PLLC

A handwritten signature in black ink, appearing to read 'John A. Borsari', with a long, sweeping horizontal line extending to the right.

John A. Borsari

cc: Shaun Maher (Room 2-A820) (Email: shaun.Maher@fcc.gov)

THALES

BROADCAST & MULTIMEDIA
104 Feeding Hills Road
Southwick, MA 01077
Tel (413) 998-1100
Fax (413) 998-1178

Pricing Proposal

**WSJU DTV CH 31
SAN JUAN, PUERTO RICO
THALES PROPOSAL #6394TDU5K8AV-061306-01-R1**

QTY	ITEM #	DESCRIPTION	NET PRICE
		<u>SCHEDULE A/ "ULTIMATE SERIES" Digital Television Transmitter:</u>	
1	1	THALES Type TDU2 5K80 ATSC 5kW Air Cooled Solid State, 8-VSB Digital Equipped UHF-TV Transmitter	\$213,124
1	S-2	Transmitter Commissioning, Checkout, and Proof-of-Performance	\$13,563
		<u>SCHEDULE B/Transmitter Options:</u>	
1	T-20	Blower and Filter Plenum	\$5,154
		<u>SCHEDULE C/System Options:</u>	
1	S-4	Line Voltage Protection System 480V WYE	\$4,500
1	S-11.6	Spare Fuse Set	\$1,362
1	S-16	Shipping and crating (estimate)	\$16,667
1	PSIP	Dynamic PSIP Pack-1 + support	11,833
		<u>TOTAL NET PRICE:</u>	\$266,203
		<u>Deposit \$ 93,171.00</u>	

April-23, 2006

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Note: Sellers price does not include any taxes whatsoever as detailed in Thales' Terms and Conditions of Quotation or Sale. Any applicable sales taxes to be paid by buyer to appropriate authorities.

Prices quoted herein shall be valid for a period not to exceed sixty (60) days from date of receipt, unless either accepted by Buyer or extended in writing by Seller. Thales reserves the right to change list price herein at its discretion.

**WSJU DTV CH 31
SAN JUAN, PUERTO RICO
THALES PROPOSAL #6394TDU5K8AV-061306-01-R1**

"This Proposal and all sales hereunder shall be subject to the attached Sales Terms and Conditions. Although the customer may include or reference its standard forms for orders or other notices hereunder, such standard forms will be superseded by the terms and conditions of this proposal including the attached Sales Terms and Conditions and any term or condition in such standard forms that is inconsistent with or in addition to the terms and conditions of this Proposal shall have no force or effect."

This quotation contains proprietary information and it may not to be divulged to any third party without the expressed written consent of Thales Broadcast & Multimedia Inc.

The estimated ship date from the supplier is based on present stock and production levels and is subject to prior sale.

If this proposal is acceptable, please sign below and fax a copy to Thales Broadcast & Multimedia (413) 998-1178.

1. Please provide exact ship-to (not billing) address:	2. Please provide exact billing address:
Street	Street
City	City
County	County
State	State
Zip Code	Zip Code

3. a) Are you tax-exempt? ☐ No ☐ Yes

b) If yes, please attach copy of your tax exemption certificate.

April-23, 2006

Note: Sellers price does not include any taxes whatsoever as detailed in Thales' Terms and Conditions of Quotation or Sale. Any applicable sales taxes to be paid by buyer to appropriate authorities.

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THALES

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Pricing Proposal

**WSJU DTV CH 31
SAN JUAN, PUERTO RICO
THALES PROPOSAL #6394TDU5K8AV-061306-01-R1**

"This proposal is accepted by _____ (insert complete legal customer name) this
23 day of April, 2006.

CUSTOMER'S COMPANY NAME: _____

By: _____

Title: _____

Please Note: Any PO provided must state:

This order is issued pursuant to THALES Proposal number #6394TDU5K8AV-061306-01-R1 and
be governed by the terms contained within.

Thales shall use all reasonable efforts to Deliver 120-150 days ARO the equipment "FOB Seller's
Factory or Origin" (UCC) quoted herein within Thales' Terms & Conditions Attached.

Payment Terms: Standard as quoted herein within Thales' Terms & Conditions Attached.

April-23, 2006

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applicable sales taxes to be paid by buyer to appropriate authorities.

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